

## CHAPTER 14:

# Lease Construction

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## 1. Overview

This chapter provides an overview of the policy goals and general process for lease construction.

**The procedures for lease construction are established by this chapter and reflect current policy. Future revisions will address the separation of the solicitation for offers into a Request for Lease Proposals and a lease and address other policy changes, including tools and templates.**

### a. Background

GSA uses new lease construction as an alternative solution to satisfy agency space requirements when existing space is not available in the market. Many of the process steps are identical to those of new or replacing leases, and this chapter points the reader back to other chapters that discuss these process steps in greater detail. This chapter provides more specificity on the process steps that are new or significantly different from other lease actions discussed in this guide.

Note: Even if the process steps match those in new or replacing leases, the Leasing Specialist should plan on longer times for each lease construction process step, depending on the project's complexity. Local subject matter experts or leasing mentors can help plan the times required for each of these process steps. Sufficient time must be allowed to prepare the approval review package, as described later in this chapter.

### b. Definitions

#### Lease Construction

Lease construction is defined as Government-planned or Government-required new construction of a building resulting from a lease solicitation. It refers to projects where the Government requirements drive a new construction solution in order to satisfy an agency's space requirements.

#### Tenant Improvement (TI) Request for Lease Proposals (RLP) Approach

The TI Request for Lease Proposals (RLP) is the most common solicitation that GSA uses today and is standard for most procurements. It can be generated in eLease using the RLP Wizard. This type of RLP identifies a tenant improvement allowance (TIA) that Offerors must include as part of their offer. The TI RLP contains carefully separated price components for the basic building shell and an allowance for tenant improvements to the shell. See Chapter 2, Part 3, Solicitation Process, for more guidance on this approach.

#### Turnkey Projects

With the turnkey approach, the RLP defines all of the Government's requirements, including the TIs, and all of the costs are negotiated before award. The turnkey approach is used in lieu of the standard TI RLP and is only possible when an agency provides a fully detailed Program of Requirements (POR) prior to issuance of the RLP. A POR results from the completion of a requirements development package. This package includes:

## 1. Overview

- An organizational study to identify mission, organizational size and structure, projected growth, work types and related space types, applicable space standards, and union requirements;
- A narrative with a general overview of the client agency's operations;
- A description of special site building or auxiliary facility requirements;
- Current and life-of-lease projected headcount data;
- ANSI/BOMA Office Area (ABOA) square footage requirements broken down by space types;
- Program data with a list of spaces for the building, a list of requirements for each space, a list of requirements for each auxiliary facility, diagrams of relationships among occupant groups (adjacency diagrams), diagrams or descriptions of features of key spaces, tabulations of requirements based upon the number of occupants, and tabulations of floor areas; and
- An overview of site and facility design requirements based on the above criteria, including flexibility of layout, potential for facility growth, and zoning of site and facility for public and secure areas.

Security design requirements, communication, and special space requirements must also be identified. A requirements development package may include requirements for thermal design, acoustical design, lighting, and HVAC. Concept floor plans with annotations of key issues and supplementary drawings of special features, layouts, equipment, furnishings, and details may also be included if necessary.

### Assignable Purchase Option

A purchase option gives GSA the right to buy a property at some future date. An assignable purchase option allows GSA to transfer this right to a third party (such as a potential lessor). This right allows GSA to select the preferred site in advance, obtain an assignable purchase option on the site, and have all developers bid to construct on the same site.

## c. When to Use the Lease Construction Process

The standard RLP template does not sufficiently address the specific terms and conditions required to acquire and construct space using new lease construction.

GSA meets space requirements in a number of ways: leasing; new construction; repair and alteration; building purchase; or in an existing Federal building. Each of these alternatives is used under different circumstances, and each provides its own benefits and limitations.

Leasing Specialists must be concerned about over-reliance on lease construction as a housing solution. History indicates that negotiated rental rates for these projects sometimes exceed high-end prevailing market rates for general-purpose office space. Lump-sum expenditures that are a significant portion of total estimated project costs are also a concern. The Leasing Specialist and Lease Contracting Officer must consider these important matters during requirements development, and they are part of the scoring analysis. **Lease construction must not be used as the first alternative solution to meeting client requirements.** Thorough analysis of the existing building inventory in the delineated area through advertisement or other means must be conducted before making any decision to proceed with Government-planned lease construction. When a client agency's space requirements cannot be met by existing commercial buildings, the



Leasing Specialist or Lease Contracting Officer must hold a discussion with the client to address the need to modify requirements that drive a planned lease construction alternative. Lease construction may be a justifiable option when scaled-back client requirements cannot be met in the market and Federal construction is not available.

**Note.** An offer that proposes new construction in response to a general request for any available space is not lease construction as covered by this Chapter. If an RLP is issued contemplating offers from existing buildings, and only offers for new lease construction are received, the RLP must be amended to incorporate the requirements for design excellence. If offers are received for existing buildings and also for new lease construction in response to the same RLP, an amendment to the RLP must not be issued to require design excellence. (See paragraph 3g of this chapter.)

Lease construction offered for a general TI RLP is acceptable when proposed alongside and priced comparably with existing building solutions. In these cases the lease construction Offeror is generally required only to meet the specifications for existing space. General RLPs allow both existing and new construction solutions and must share the same requirements for those existing and new construction proposals. RLPs must not mix different requirements for existing and new construction space.

#### **d. Two Phase Design-build Authorities**

Section 4105(b)(1) of the Federal Acquisition Reform Act (FARA) of 1995, Public Law 104-106, amended the Federal Property and Administrative Services Act of 1949 to add Section 303M authorizing the use of two-phase design-build selection procedures.

Current procedures are contained in the General Services Administration Acquisition Manual (GSAM) 570.105-2, which authorizes the use of two-phase design-build selection procedures when certain conditions are met. GSAM 570.305 further describes the procedures authorized by GSAM 570.105-2.

Federal Management Regulation (FMR) Part 102-73.110—Real Estate Acquisition, Lease Construction, describes the rules to follow for lease construction. Specifically, when acquiring leasehold interests in buildings to be constructed for Federal Government use, Executive agencies must:

- Establish detailed building specifications before agreeing to a contract that will result in the construction of a building;
- Use competitive procedures;
- Inspect every building during construction for compliance with the Government's specifications;
- Evaluate every building after completion of construction to determine that the building complies with the Government's specifications; and
- Include provisions permitting the Government to reduce the rent during any period when the building does not comply with the Government's specifications in any contract that will result in the construction of a building.

## e. Other Standards and Requirements

Leasing Specialists must enforce the following additional standards for buildings that are constructed in response to a solicitation:

- At the current time, buildings must comply with the most recent edition of the building code, fire code, and ordinances adopted by the jurisdiction in which the building is located. In addition, the offered space must meet the applicable egress requirements in National Fire Protection Association (NFPA) 101, Life Safety Code, or an alternative approach or method for achieving a level of safety deemed equivalent and acceptable by the Government. GSA will revise the fire and life safety requirements for all future RLPs in the near future.
- In cases where GSA's formal RLP has an option for GSA to purchase the building at a future date, the requirements of the Facilities Standards for the Public Buildings Service PBS P100 may be considered for inclusion in the RLP on a case by case basis. In addition to the GSA-adopted nationally recognized codes and requirements, state and local government codes apply. If a conflict exists between applicable state and local government codes and the GSA requirements, the developer must identify these conflicts in writing and request a resolution from the Lease Contracting Officer.
- Depending upon the complexity of the relocation project, Offerors may be required to provide a relocation plan with final proposal revisions. See Section 8, "Occupancy," in this chapter for more information on the relocation process.
- For lease construction below the prospectus threshold, see the paragraphs of this chapter below.
- For prospectus-level lease construction, see Chapter 11, Prospectus-Level Leases, for additional guidance.
- For National Environmental Policy Act (NEPA) compliance, and possible use of Categorical Exclusion (CATEX), see Chapter 2, Part 2, Market Survey Process. The complete GSA *NEPA Desk Guide* is located at <http://ogc.elaw.gsa.gov/planning/GSANEPADeskGuide.pdf>.
- For Office of Management and Budget (OMB) Circular A-11 scoring evaluation, which must be performed for all leases, see Chapter 11, Prospectus-Level Leases, and Appendix F, Determination of Operating or Capital Lease Classification for Budget Scoring.
- Projects of 10,000 rentable square feet and above must meet the requirements of LEED-NC (Leadership in Energy and Environmental Design for New Construction) Silver level (minimum).

### TIP BOX:

LS/LCOs are required to select the RLP language requiring LEED NC-Silver for new construction. If the LS/LCO incorporates a requirement for compliance with PBS P100 standards in the RLP, delete the LEED NC-Silver paragraph. PBS P100 requires LEED NC-GOLD.

### Green Leasing

Green leasing as an everyday requirement has arrived. The Energy Star benchmark score requirement of 75 and above must be incorporated into all leases in support of the Energy Independence and Security Act, Public Law 110-140, Section 435.

While LEED Gold is required for all Federal construction projects, the current standard for Lease Construction of 10,000 square feet or more is LEED –NC Silver.



### *Space Utilization and Mobility*

All leases must address the concepts in the GSA publication, *Leveraging Mobility, Managing Space, How Changing Work Styles Affect Real Estate and Carbon Footprint*, resulting in an economical use of the space which can be adjusted as requirements for different space utilization fluctuate, and thus minimizes the footprint. The referenced publication can be found at [http://www.gsa.gov/graphics/pbs/Leveraging\\_Mobility\\_508\\_compliant.pdf](http://www.gsa.gov/graphics/pbs/Leveraging_Mobility_508_compliant.pdf).

As agency budgets are stretched to the limit and GSA is asked more and more to help reduce lease costs, the application of sustainable space utilization principles will be relevant to achieving reduced operating costs and providing housing solutions to fluctuating headcounts by combining telework, hoteling, shared resources, and other concepts tailored to the specific situation. Space utilization incorporates location strategy, assignment of personal space, proportion of space type, space design and access to files, and technology into the decision process.

Going forward, sustainable space utilization will play a major role in developing a complete and relevant Program of Requirements for each lease construction project by identifying an appropriate amount of space when developing the lease solicitation. Lease Process Reengineering (LPR) recommendation #5, Apply Industry Space Measurement Terminology Consistently, requires specifying space ranges in RLPs in ANSI/BOMA Office Area (ABOA) terms rather than in rentable terms. In this way, when working with Lessors on design intent drawings, they will be less apt to provide layouts that maximize the building core factor based on GSA's estimate of a standard core factor, and, therefore, the rent bill, which will hopefully drive Lessors to be more efficient in determining common area spaces.

### *Global Project Management (gPM)*

Global Project Management principles will incorporate the appropriate personnel and qualifications into the team from project inception, which will provide a seamless application of Design Excellence and other initiatives to Lease Construction projects.

## **2. Lease Construction Process**

The Lease Construction Process is summarized below.

### *Lease Construction Stages and Outputs*

Phases/Steps	Key Outputs
<b>Requirements Development</b>	
<ul style="list-style-type: none"><li>• Receive requirements</li><li>• Develop POR</li><li>• Develop options</li><li>• Acquisition planning</li><li>• Develop prospectus</li><li>• Develop project management and communication plan</li><li>• Prepare RLP</li><li>• Select option site</li></ul>	<ul style="list-style-type: none"><li>• Formal requirements document</li><li>• POR options worksheet</li><li>• Options package</li><li>• Acquisition Plan (occupancy profile)</li><li>• Full prospectus package (per Desk Guide Chapter 11)</li><li>• Project management and communication plan</li></ul>
<b>Authorization and Appropriation</b>	

Phases/Steps	Key Outputs
<ul style="list-style-type: none"> <li>Above prospectus level:                             <ul style="list-style-type: none"> <li>—Obtain OMB approval</li> <li>—Submit prospectus to Congress</li> <li>—Committees pass Resolutions</li> <li>—Congress appropriates funds</li> </ul> </li> <li>Below prospectus level:                             <ul style="list-style-type: none"> <li>—Obtain Central Office approval</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>OMB authorization</li> <li>Committee Resolutions</li> <li>Congressional appropriation</li> <li>Central Office approval</li> </ul>
<b>Procurement (and Construction Management)</b>	
<ul style="list-style-type: none"> <li>Advertise, conduct market survey, issue RLP</li> <li>Evaluate offers</li> <li>Award lease</li> </ul> <hr/> <b>Construction management:</b> <ul style="list-style-type: none"> <li>Conduct teaming meeting</li> <li>Assign purchase option where applicable</li> <li>Conduct site preparation</li> <li>Receive post-award submittals (shell and core drawings, site drawings)</li> <li>Develop design intent drawings (DIDs)</li> <li>Prepare construction schedule</li> <li>Receive construction drawings (CDs)</li> <li>Procure TI bid</li> <li>Issue Notice to Proceed (NTP)</li> <li>Hold construction kickoff meeting</li> <li>Perform construction</li> </ul> <hr/> <ul style="list-style-type: none"> <li>Accept space</li> <li>Prepare final contract documents</li> </ul>	<ul style="list-style-type: none"> <li>Lease contract</li> <li>Design intent drawings</li> <li>Construction drawings</li> <li>Occupancy permit</li> <li>Commencement</li> <li>Supplementary Lease Agreement (LEASE AMENDMENT) and signed Occupancy Agreement (OA)</li> </ul>
<b>Occupancy</b>	
<ul style="list-style-type: none"> <li>Rent start</li> <li>Occupancy</li> <li>Project Closeout</li> </ul>	<ul style="list-style-type: none"> <li>Final OA</li> <li>R620 Lease Digest Action: See Chapter 2, Part 8, Lease Commencement and Closeout</li> <li>Space assignment drawings</li> <li>Project Completion Assessment</li> </ul>

## 3. Requirements Development

### a. Trigger Events

The lease construction review process is triggered when market conditions (or an Offeror) favor lease construction as a possible outcome. The lease construction solution is usually identified before or during the market survey.



## b. Determining Requirements

The Leasing Specialist must follow the same process to define and document the client agency's requirements as with other lease actions (see Chapter 1, "Requirements Development," for more information). A single-phase TI RLP or turnkey RLP acquisition requires a complete and detailed POR before issuance of the solicitation. This is to make certain that Offerors have all the information they need to provide a responsive offer.

## c. Delivery Options Development

The Leasing Specialist must define the appropriate options for the client agency as explained in Chapter 2, New or Replacing Lease. These options could include some or all of the following:

- Federal delivery;
- Lease delivery (new or backfill existing space); or
- Lease construction.

When GSA and the client agency first discuss a need for space, the Leasing Specialist's first obligation is to check GSA's inventory of Government-owned and -controlled leased space. If no suitable space is available to satisfy the agency's need, a leasing action is required (see Chapter 1, Requirements Development, for more information on inventory checks). If Government-controlled leased space is available and can meet the client agency's needs, a backfill lease action is necessary.

## d. Scoring

The initial scoring for this requirement must be completed during the requirements development phase. All lease construction must be evaluated against the budget scoring criteria detailed in Appendix B of OMB Circular A-11, Criteria and Scoring Ramifications for Operating and Capital Leases.

Designated employees in each regional Office of Portfolio Management, in coordination with the Leasing Specialists, must perform all scoring evaluations and make the determination that a lease is either an operating or a capital lease. Chapter 11 and Appendix F provide guidance for determining an appropriate budget scorekeeping treatment.

## e. Acquisition Planning

### Solicitation Options for Lease Construction

#### Two-Phase Design-Build Selection

GSAM 570.305 identifies RLP elements required when using the procedures and the factors included in phases 1 and 2. The two-phase design-build solicitation was formulated to identify the most experienced development teams so that only those teams most likely to obtain the lease award were required to submit comprehensive and costly-to-prepare proposals. GSAM 570.105-2 states, in part, that the two-phase design-build is to be used when the Lease Contracting Officer expects three or more offers. Offerors will need to perform design work before developing a price, and Offerors will incur a substantial amount of expense in preparing offers. RLPs must clearly state the maximum number of Offerors to be selected for phase 2 (generally not to exceed five).

Two-phase design-build selection procedures are more appropriate when a fully detailed client agency POR is complete.

The use of two-phase design-build selection procedures does not necessarily require the issuance of two RLPs, one for each phase. Leasing Specialists and Lease Contracting Officers may also use the following alternative forms of solicitation:

- Issuing one solicitation that clearly and separately identifies phase 1 and phase 2 requirements or
- Issuing two solicitations in sequence (one for each phase) when there is a need to protect sensitive security or other program requirements. In this case, issue the full POR in phase 2, and include in the phase 1 solicitation a notice to potential Offerors that only Offerors selected for phase 2 will receive the full RLP requirements and the client agency's complete POR.

As an example, RLP paragraphs may include statements similar to the following. The statement modifies the paragraph, Building Shell Requirements, by deleting the list of the building shell requirements and advising phase 1 Offerors that only those Offerors advancing to phase 2 will receive the requirements:

**BUILDING SHELL REQUIREMENTS (PHASE 1)**

Additional requirements will be provided to the Offerors advancing to Phase 2 of this solicitation.

Phase 1 of the solicitation must include a description of the project scope and phase 1 evaluation factors, including specialized experience, technical competence, capability to perform, past performance of the Offeror's team, and other appropriate factors, such as site or location. Offerors must not be required to submit detailed design information or cost or price information in phase 1.

Phase 2 evaluation factors include detailed technical and price proposals. If using one solicitation incorporating two-phase design-build procedures, Leasing Specialists must request phase 2 detailed technical and price proposal information only from the short list of Offerors moving on to phase 2.

**Single-Phase TI Lease Construction RLPs**

In addition to two-phase design procedures, lease construction may be solicited in a single-phase RLP. This type is useful for smaller or less complex projects. When using lowest price technically acceptable procurement methods, the LCO must incorporate the following Design Excellence in Leasing paragraph in the RLP:

**"DESIGN EXCELLENCE (APR 2011)**

This project will result in the award of a lease requiring the construction of a new building. Such an award is an opportunity in design and construction excellence. After the award of the lease, the Lessor's Architect, Engineers and Construction Management Team shall participate in a Technical Design Review of the design with Government representatives to collaboratively develop a final design and balance the following objectives:



- Provide an efficient working environment that can accommodate ongoing technological innovation and allow for a technologically state-of-the-art work place throughout the building's useful life;
- Provide design, construction, and ongoing operational services that minimize the impact on the environment and the utilization of energy and other scarce and non-renewable resources;
- Provide an innovative design that appropriately expresses the Federal Government's purpose and identity—a facility that reflects the dignity, enterprise, vigor, and stability of the Federal Government, emphasizing designs that embody the finest contemporary architectural innovations while avoiding an official style;
- Provide a design that exemplifies accessibility within the context of a public/private sector project;
- Provide an efficient and economical construction process and procedures that enforces and improves the design goals; and
- Deliver the building on-time and on-budget and within prevailing market rates for this type of facility.

GSA's goal is to maximize the above objectives in the design and construction of the facility while maintaining a fully serviced lease.

Projects over 10,000 rentable square feet must be designed and constructed to achieve a minimum of LEED-NC Silver rating. See the paragraph concerning LEED-NC requirements for more information."

### Lease Construction RLP Paragraphs

Hidden blue text with specific instructions for using each paragraph may be found in the standard RLP template. Leasing Specialists and support contractors must closely follow the directions to properly apply the paragraphs. Red text, as in the standard RLP, indicates that the Leasing Specialist must choose between subparagraphs. After choosing the applicable subparagraph, the other non-applicable paragraphs and alternative paragraphs must be deleted.

A separate lease construction RLP is currently not available. The new lease construction RLP paragraphs are under development and will be inserted in the RLP and made available on PBS InSite, on [www.gsa.gov/leasing](http://www.gsa.gov/leasing), and in the eLease application. Many standard RLP paragraphs also apply to lease construction and must be selected when developing lease construction RLPs.

## **f. Prospectus Development**

A prospectus is a summary of the proposed lease action that is submitted to OMB and GSA's authorizing committees. As a matter of policy a Leasing Specialist cannot publish an advertisement until OMB has approved the prospectus for submittal to the committees and GSA submits the prospectus.

GSA determines an annual prospectus threshold amount under applicable law (40 U.S.C. 3307) and provides this by letter to Congress for the specific fiscal year capital investment and leasing program being considered by Congress.

See Chapter 11, Prospectus-Level Leases, for information on the prospectus submission process.

## **g. Design Excellence in Lease Construction**

The GSA Design Excellence Program is GSA's long-term commitment to excellence in public architecture, engineering, and construction. Design excellence is both a commitment and a process. It is a commitment to using first class design and sustainable (green lease) principles to provide GSA clients with well-designed, high quality space that creates a positive impression for the Federal Government and economizes resources by incorporating environmentally friendly design.

A primary goal of the Design Excellence Program is to realize the objectives of the Guiding Principles of Federal Architecture. Under the program, the selection of architects and engineers

who design GSA facilities is based foremost on their demonstrated talent, creativity, and ingenuity. In addition, the entire architect/engineer (A/E) design team must demonstrate its ability to satisfy the comprehensive project development and management requirements for each specific project.

The buildings the Federal Government occupies say a great deal about us. Buildings housing Federal employees are not just places where public business is conducted. In many communities, these public buildings are the Federal presence and as such should express the strength and character of our country, and enhance their surroundings.

The Design Excellence Program incorporates private sector peer professionals in the selection of the A/E design teams and the review of proposed designs. These peer professionals are distinguished architects, engineers, landscape architects, urban designers, public arts administrators, design educators, and critics from across the Nation. Peer professionals may be utilized on lease projects to supplement resources as advisors to the Source Selection Authority. Incorporation of the Design Excellence approach into the Lease Construction process will strengthen GSA's commitment to achieve the highest standards in design and performance for its leased facilities.

The Regional Chief Architect (RCA) or designee will participate in evaluation of the Offeror's project team experience and past performance, and review the designs submitted depicting the to-be-constructed building. Depending upon the project's size and significance in the community, the RCA may have other experts, from the Office of the Chief Architect (OCA) or Indefinite Delivery Indefinite Quantity (IDIQ) Peer Contractors provide assistance in conducting the technical design reviews and making recommendations to the Lease Contracting Officer on the Technical rankings of the project team's proposed design, or both.

Pre-award Design Excellence in Leasing must be incorporated into the leasing process along with other procurement activities, so that the lease procurement time is unchanged. A key focus of Design Excellence requires that the Lead Designer and A/E qualifications are considered during successful Offeror selection. Lease Contracting Officers will collaborate with the Regional Chief Architects to fulfill this requirement without negatively impacting the lease project schedule.

Once the lease is awarded, the Regional Chief Architect or designee will participate in ongoing Technical Design Reviews at each submittal stage and make recommendations that are within the scope of the lease to improve the design.

Under the Design Excellence in Leasing process, RLP submittal and evaluation requirements will be tailored to the needs of the project, based on the level of design required pre-or post- award. The RLP will either list the minimum requirements for the A/E and lead designer's past performance and experience with projects of similar size and complexity or evaluate these criteria by incorporating these criteria into evaluation factors. Design Excellence in Leasing must also incorporate the concepts of Green Leasing and Space Utilization and Mobility. The result will strengthen GSA's commitment to achieve the highest standards in design, sustainability, and performance for its leased facilities.

### ***Design Excellence in Lease Construction Application***

Design Excellence in Leasing is required for all lease construction projects. The regional project team, in consultation with the Regional Chief Architect will determine the extent of design review required based upon characteristics of each project. Design Excellence language and requirements will be included in all lease RLPs where the government is seeking to satisfy agency-specific requirements that result in lease transactions for new Lease Construction as the means to satisfy the need for space.

In a procurement where the Government is seeking space in existing buildings, but no offers of existing buildings are received and Offerors are proposing Lease Construction within the required delivery time frame, the RLP must be amended to insert the requirement for a post award Technical Design Review of the design. The RLP amendment must include the Design Excellence in Leasing paragraph found in paragraph 3e of this chapter.

### ***Team Structure***

The appropriate Global Project Management (gPM) team members must be identified in accordance with established regional processes under gPM Success Factors 1 and 2 to assist the Lease Contracting Officer (LCO) on Design Excellence in Leasing aspects of the project. The Project Manager must collaborate with the Regional Chief Architect to assemble the right team from the start of each Lease Construction project. The gPM team members will provide technical guidance and support to the LCO on the project's Design Excellence in Leasing aspects, and the LCO will manage the leasing aspects of the process from requirements development to occupancy, employing the principles of gPM.

The gPM team must be multidisciplinary, with clearly defined roles and responsibilities. A key member is the Regional Chief Architect (RCA), who will help finalize design submittal and evaluation requirements of the RLP and participate in design submittal evaluations. Depending upon project complexity, the Chief Architect or the Regional Chief Architect may nominate staff experts, or Indefinite Delivery Indefinite Quantity (IDIQ) contractors, and peers appointed by the Office of the Chief Architect (OCA) to act as advisors to the Source Selection Evaluation Board (SSEB). The gPM team will balance the interests of PBS, the client, taxpayers, and other internal and external stakeholders. The team should refer to the first edition of the Design Excellence In Leasing Desk Guide for guidance to confirm Design Excellence principles are incorporated into the lease construction process. The guide is located on the PBS insite at [http://pbsportal.pbs.gsa.gov:7777/portal/page?\\_pageid=80,660027&\\_dad=portal&\\_schema=PORTAL](http://pbsportal.pbs.gsa.gov:7777/portal/page?_pageid=80,660027&_dad=portal&_schema=PORTAL).

If a construction manager is required, this role must be part of the core project team before the solicitation begins. The Leasing Specialist and Lease Contracting Officer must consider the complexity, size, and distance of the project from a regional office when determining the need for a post-award construction manager.

### ***Prospectus Level Projects or Projects with Significant Visibility within the Community***

Best value tradeoffs can be used for a range of lease procurements with high community impact involving new construction or major renovations to an existing building, however, Lease Contracting Officers must use a best value tradeoff approach for all prospectus-level projects. Design Excellence is introduced through review of designer qualifications and design submittal(s) by the Regional Chief Architect or designee prior to lease award.

In an effort to increase competition and reduce cost of submittals for the Offerors, the two phase design-build procedures shall be used. If not using the two phased procedures, the RLP should still only require massing or early schematic designs to be submitted by Offerors prior to lease award. Detailed core and shell design should be developed after award. After the selection of the successful Offeror, the Regional Chief Architect or designee must participate in ongoing Technical Design Reviews at each submittal stage and make recommendations, as necessary, that are within the scope of the lease to improve the design.



### ***Award Factors/Evaluation Criteria***

The SSEB will evaluate the Offerors' proposed lead designers' and the A/E design team's experience and past performance on projects of comparable scope. The evaluation of the design team and lead designer shall be added to the existing evaluation factors for experience and past performance. Additional RLP submittal and evaluation requirements must be tailored to the specific needs of the client and based on the design required. Evaluation factor categories may include, but are not limited to the following:

- **Site/Location:** Should be in a prime commercial office district or office park convenient to major traffic arteries and public transportation, and no economically insurmountable geotechnical or terrain challenges.
- **Building Exterior:** The building façade, fenestration and massing should be attractive, made of high quality and durable materials capable of long-term, environmentally responsible performance in the public realm.
- **Lobby and Public Space:** The lobby should be welcoming, uncluttered, convey spaciousness, and be intuitively organized. Security stations should be attractive, well-placed to expedite queuing and processing. Interior finishes should be of appropriate quality and durability.

### ***Quality of Facility Design/Potential of Leased Space:***

The space should be in a high quality and attractive professional workplace environment with efficient layout and good adjacencies. This is achieved via innovative space-utilization plans that are flexible, and which economize leasehold area.

To provide Federal workspaces of the highest quality, Technical Design Reviews will be conducted during the evaluation of initial offers, final proposal revisions and post award during the design intent drawing and final building design process.

### ***Post Award Technical Design Reviews***

In an effort to increase competition and reduce cost of submittal of an offer only massing and early conceptual (schematic) designs that convey the Offeror's vision should be required for submission by Offerors prior to lease award. The Lessor will be required to develop detailed core and shell design after award. After the selection of the successful Offeror, the Regional Chief Architect or designee must participate in ongoing Technical Design Reviews at each submittal stage and make recommendations that are within the scope of the Lease to improve the design.

The appropriate level of design review that is incorporated into the leasing process must be determined by the gPM project team based upon the project's size, significance in the community, annual rent, lease term, and other conditions.

The gPM team should consider the advantages of obtaining an assignable purchase option to obtain the best available site that meets the client agency's requirements, then advertise for a developer to assume the assignable option, design, and build the facility. Guidance on site acquisition can be found at

[http://pbsportal.pbs.gsa.gov:7777/portal/page?\\_pageid=80,110785&\\_dad=portal&\\_schema=PORTAL](http://pbsportal.pbs.gsa.gov:7777/portal/page?_pageid=80,110785&_dad=portal&_schema=PORTAL)

### ***Below Prospectus Level Projects or Projects with General Visibility within the Community***

### **Best Value, Low Price/Technically Acceptable**

Below prospectus-level projects, and lower visibility lease construction projects can use either the best value tradeoff or the lowest price technically acceptable source selection method. If using the lowest priced technically acceptable method, the Leasing Specialist must include a minimum level of experience and past performance that are to be stated as minimum qualification requirements in the RLP. The Offeror's Lead Designer and A/E team must meet those minimum requirements.

## **4. Approval of Lease Construction Review Package**

### **a. Review for Lease Construction Below Prospectus Level**

GSA clients, various GSA business lines, and OMB have all expressed concerns regarding the cost of lease construction projects. To address these concerns, lease construction projects must be reviewed at a higher level to confirm that the projected rates are close to the prevailing market rate for existing Class A (prime) buildings in the same market. Accordingly, regional program managers must transmit lease construction proposals to the Office of Real Estate Acquisition (OREA) for approval by OREA and the Office of Portfolio Management. The requests should be submitted as early in the process as feasible to prevent opening procurements prematurely and to avoid the risks attendant to delaying projects and cancelling procurements.

The approval process includes examining the market most relevant to the client agency's delineated area. Markets are normally segmented as downtown versus suburban, or inside the Central Business District (CBD) versus outside; these markets are sometimes further segmented into submarkets. If regions report that a particular submarket has a particularly high market rate, the Leasing Specialist or responsible project member must reevaluate the delineated area requirement. The review first considers the projected full service rental rate information provided by the region by segmenting the numbers, broken down into shell, operating rent, and tenant improvement costs. Reviewers also consider the project requirements, market conditions, and unique circumstances such as locale, competing interests in the market, and other factors. They also consider the Occupancy Agreement termination rights, scoring, and the market information provided by the regions.

This information is matched against several sources of market data, such as those described in Chapter 2, Part 4, paragraph 2b, Market Knowledge.

From this analysis OREA will make one of three determinations:

- To proceed,
- Not to proceed, or
- To exercise special consideration.

If there is no significant difference between the gross rental rate projected by the region and the market data, OREA makes a recommendation to proceed. If a significant variance exists, OREA will issue a decision not to proceed.



#### 4. Approval of Lease Construction Review Package

OREA will instruct Lease Contracting Officers and client agencies to consider the project's requirements, market conditions, and unique circumstances, as well as how to bring the projected lease rate closer to the high end of the prevailing market rate for existing Class A (prime) buildings.

Labeling a project "Not to Proceed" does not indicate that the project must be cancelled. Instead it indicates that the requirements must be reviewed carefully in an effort to reduce the gross rental rate. In many instances, a quick and simple adjustment to the client agency's requirements has dropped rates dramatically or opened the door to use existing buildings. This is the simple intent of the lease construction review. Projects designated as not to proceed may be resubmitted for reconsideration once the requirements, the market, or both have changed enough to close the gap between the projected rental rate and market rate for existing space.

If, during this review, the Leasing Specialist and the client agency collaboratively determine that all efforts have been exhausted to bring a rate closer to market and that further trimming of the requirements would significantly diminish the client agency's mission, the project may be resubmitted for special consideration. OREA will set such projects aside for further discussion. However, there is no time line for this consideration, nor any guaranty that OREA will eventually issue an approval to proceed.

If considering the cancellation of an open procurement for lease construction, the Lease Contracting Officer must first consult with Office of Regional Counsel before issuing any cancellation notice to the Offerors.

### b. Approval Process

Leasing Specialists or the responsible project member must send lease construction review submittals to [LeaseConstructionReview@gsa.gov](mailto:LeaseConstructionReview@gsa.gov) (*LeaseConstructionReview* in Lotus Notes). Before submitting the request the Leasing Specialist or project member must confirm that projects are reviewed in the region by a region's single point of contact, usually the Realty Services Officer, or other designated contact. The Leasing Specialist may post support documents in eLease for review; otherwise, a complete set must accompany the request.

In addition to the project review template, the following documents are required if available at the time of submittal:

- A narrative describing the steps taken to maximize the use of existing space, including retail space;
- An SF-81 or other request for space;
- Special requirements;
- Market data for the existing building market (including office and retail);
- Market survey report;
- Market data detailing rates for new construction (include shell, operating costs, and tenant improvements when possible);
- Draft OA (fully executed, non-cancellable preferred);
- Scoring evaluation and result (complete set);
- Lump-sum Reimbursable Work Authorization (RWA) amount for above-allowance tenant improvements or security;
- The acquisition plan; and
- A copy of the FedBizOpps advertisement, where already posted.



Leasing Specialists who have questions about the review process must contact their region's lease construction review program manager.

## 5. Select Option Site

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Once the Office of Real Estate Acquisition authorizes a lease construction project, the Leasing Specialist must select a site. There are two primary ways to select a site:

- **Developer site**—GSA may ask each developer to designate its own preferred site that meets the requirements and include it in the proposal.
- **Assignable option**—GSA may select the preferred site in advance, obtain an assignable purchase option on the site, and have all developers bid to construct on the same site.

Practical tools—including flowcharts, checklists, RLP and lease language and other templates—that the Leasing Specialist may use for site selection when using an assignable purchase option are under development and will be incorporated into the Desk Guide as supplemental material when finalized.

## 6. Procurement

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### a. Project Management

Global project management (gPM) is a way of managing projects more holistically, integrating project management into the context of GSA's business, and balancing client needs and requirements with GSA agency and portfolio needs.

### b. Prepare RLP

The standard RLP template does not sufficiently address the specific terms and conditions required for new lease construction. The Leasing Specialist must assemble the Lease construction RLP paragraphs as discussed in paragraph 3e, Acquisition Planning.

### c. Source Selection

The Lease Contracting Officer or responsible project team member must base the source selection approach on the acquisition plan.

The Leasing Specialist must remember that the necessary lead times for each of the source selection steps may be longer than those for non-construction leases, depending on the complexity of the space being built.

### d. Pre-Award Responsibility Check

Over the past decade, the financial landscape has changed significantly with respect to commercial real estate. An Offeror's earliest financial assumptions affect project stability and have long-term ramifications for how the project is delivered and the space maintained over the life of the lease. The Lease Contracting Officer must, at a minimum, be able to assess the

project's financial viability as part of the financial responsibility determination required before every award.

The Lease Contracting Officer must make a responsibility determination before an award of any lease and especially for lease construction procurements. There are options for the LCO to employ in making the determination depending on the size, complexity, and perceived risk of the project. LCOs must follow the procedures required by GSAM 570.108 and FAR 9.2 and must request a pre-award survey for submittal to the Financial Information Control Branch (FICB). A contracting officer may also require that each Offeror provide detailed financial documentation for both the offering entity and the project that will be examined and closely reviewed by the LCO in making the responsibility determination.

### **General Pre-Award Survey of Prospective Contractor**

Lease Contracting Officers and Leasing Specialists conducting lease construction procurements must request a general pre-award responsibility check on prospective lessors. This check can be requested by completing an SF-1403, Pre-Award Survey of Prospective Contractor (General), and submitting it for evaluation by the FICB at the following address:

Financial Information Control Branch  
1500 E Bannister RD  
Room 2042  
Kansas City, MO 64131-3009

Completing the SF-1403 is required and self-explanatory. The Lease Contracting Officer or Leasing Specialist must complete the applicable sections (excluding Sections II and IV), sign where indicated, and submit the form and any supplemental information.

The turnaround time for this review depends on the response time of the Offeror in providing the information. The FICB closes all evaluations within 30 days and is required to complete its evaluation by the 21st day. The average time is 10 days, depending on the accuracy of the information that the Offeror submits. If the FICB does not respond within the allotted 30 days, the review will be closed and the Leasing Specialist or Contracting Officer will have to consult with the FICB and the Offeror to reinstate the financial responsibility review.

The type of information the FICB requests from the Offeror depends upon the structure of the potential lease contract, the term, and the total contract value. Examples include:

- The name and address of all mortgage holders;
- A schedule of contingent liabilities through affiliated interests such as partners, individuals, and others by personal guarantees or endorsement;
- Pro forma cash flow statements for the proposed lease, including financing costs for construction or site renovations;
- Proof of financing such as a signed contingent commitment letter to the Offeror from a bank or financial institution stating terms and conditions;
- Copies of paid tax receipts;
- Evidence of ownership of the property or current option to buy or ground lease the property; and
- Financial statements.

Similar financial information collected from Offerors during the acquisition must be forwarded to the FICB with the SF-1403.



### More Detailed Review of Financial Strength

An option for more complex projects is to require that the Offeror provide financial information on the offering entity and the project as a minimum requirement. The following is provided as an example of the information that may be required. Lease Contracting Officers must work closely with the Office of Regional Counsel in developing the actual submittal requirements specific to each procurement. Outside resources to analyze the information requested should be considered including other GSA employees, or contract support.

### Corporate Financial Assessment

Lease Contracting Officers and Leasing Specialists typically award a lease contract to a responsible Offeror that represents the best value to the Government. Corporate financial responsibility is part of the responsibility determination and submittal of detailed information may be required in the RLP. The determination of financial responsibility is made through a financial assessment in accordance with generally accepted accounting and financial responsibility standards.

All information must be treated as confidential and must not be shared with any other entities. A notice of the confidential treatment must be provided to the Offerors and if a contractor is employed to assist in the review, the contractor must sign a nondisclosure statement to keep the information confidential.

The analysis may examine the Offeror's financial data, including a review of the following:

- Earnings before interest and taxes (excluding balloon payments). This measures the Offeror's ability to make interest payments on debt and capacity to take on additional debt. The formula is:  $(\text{Earnings Before Interest} + \text{Taxes}) / \text{Interest Charges}$ .
- Debt service coverage ratio. This measures the Offeror's ability to provide sufficient cash to cover its debt (including lease) payments. The formula is:  $(\text{Net Profit} + \text{Non-Cash Expenses [such as depreciation, amortization, and depletion]}) / (\text{Principal Repayment} + \text{Interest Payments} + \text{Lease Payments})$ .
- Equity levels. This measures the Offeror's ability, including any third-party equity, to contribute to the estimated initial equity investment. The Lease Contracting Officer must review the strength and reliability of any third-party equity proposed.
- Future debt maturities. This measures the impact of maturing debt on the Offeror's continued financial strength, as it affects the company's ability to obtain financing. The Offeror must provide a narrative regarding its plan and ability to finance future debt maturities.
- Current ratio. This measures an Offeror's capacity to pay current liabilities by using only current assets. The formula is:  $\text{Total Current Assets} / \text{Total Current Liabilities}$ .
- Debt to total assets ratio. This assesses the company's long-term solvency by measuring the relationship between the Offeror's funds provided by creditors (debt) and the capital invested by owners and any retained earnings. The formula is:  $\text{Total Debt} / \text{Total Assets}$ .
- Dun & Bradstreet report. This reports on the Offeror's delinquencies and other financial information.

- Financial references. The Lease Contracting Officer reviews financial references from three prior projects for the Offeror or the Offeror's partners and officers.

The Offeror's initial document submittal must contain accurate and up-to-date information. Lease Contracting Officers must also reserve the right to request updated information with any proposal revision.

### **Project Financial Assessment**

The Lease Contracting Officer may require that Offerors provide project-level financial information to allow an assessment of the proposed development's financial structure and corresponding assumptions. The LCO must review the project-level data for reasonableness and responsibility.

As with the corporate financial assessment, Lease Contracting Officers may employ the services of an outside contractor to assist in evaluating the required project-level financial information. All information must be treated as confidential and must not be shared with any other entities. A notice of the confidential treatment must be provided to the Offerors and if a contractor is employed to assist in the review, the contractor must sign a nondisclosure agreement to keep the information confidential.

The analysis may entail examination of these Offeror documents:

- Project pro forma. This analysis uses a pro forma model (Microsoft Excel software with fully functional cell formulas and internal linkages in place) depicting a development budget and operating cash flow that accurately reflects the proposed project concept and financing through the anticipated firm term of the lease period. The pro forma must include sufficient detail for the Lease Contracting Officer to evaluate the overall financial viability of the project and the reasonableness of the Offeror's assumptions. Accordingly, the pro forma must include, at a minimum, the following:
  - The development budget;
  - A cash flow statement; and
  - A statement of sources and uses.
- Financial narrative. This is a statement of the Offeror's financing strategy.
- Financing letter of intent. This document is defined in the Request for Lease Proposals section "Evidence of Capability to Perform."

The analysis should include a review of the following data:

- Rental revenue;
- Operating expenses;
- Construction costs;
- Sources and uses of funds;
- Debt coverage ratio (DCR);

- Loan-to-value ratio (LTV);
- Loan-to-cost ratio (LTC);
- Unleveraged return;
- Return on equity (ROE);
- Internal rate of return (leveraged);
- Net present value (NPV); and
- Loan terms.

### **e. Exercising Assignable Option**

Exercising land options requires specific actions as described below. Although Leasing Specialists are assigned many of these steps, where appropriate they can and should delegate this work to others (e.g., project managers or site selection teams). Many of these tasks may run concurrently.

#### **Preliminary Actions**

Preliminary actions for the Project Manager include developing a work plan, establishing a site selection team, and developing communication plans. These preliminary actions can be accomplished concurrently with developing the site requirements as discussed below.

The work plan must address the status of the project approvals, scope, schedule, budget, and overall approval process. To establish the site selection team, the Leasing Specialist must define the roles and responsibilities of the members, clarify the decision makers, and spell out the reporting structure for the team. The communication plan must define the clients and stakeholders and include the content, time frame, and medium for communicating to each stakeholder group. Lease construction stakeholders usually include GSA Central Office and regional offices, the local community, local governments and organizations, and Congress. The Leasing Specialist also must determine the RWA funding needed for any studies that might take place during the project.

The Office of Regional Counsel must be involved in the site selection process and negotiations.

#### **Develop Site Requirements**

The Leasing Specialist must confirm the client agency's requirement along with other actions discussed below. The Leasing Specialist should expect to need 15 days to complete these steps. Developing site requirements involves reviewing feasibility studies and other documents to confirm that the site is still the preferred alternative. Concurrently, the Leasing Specialist must confirm the square footage and security level for the project. With this information, the Leasing Specialist can open discussions with the client agency to identify potential sites and define evaluation factors, including go/no-go factors such as location within the delineated area, site size, and not in a floodplain.

After discussions with the client agency, the Leasing Specialist must determine the acreage for the project and confirm the delineated area with the local community. Design excellence staff, the regional NEPA specialist, and cultural staff must also be consulted. Next, the Leasing Specialist



must draft the preliminary evaluation factors for compliance with Federal mandates, any prospectus, and client location requirements. At this stage, the Leasing Specialist will be able to determine the overall approach to the site (using an option, developer, or a hybrid of those alternatives).

With the approach defined, the Leasing Specialist must decide whether an advertisement is needed, and if so which medium would be best (local newspapers, Web, FedBizOpps, or others). Central Office's Center for Site Acquisition ([asksites@gsa.gov](mailto:asksites@gsa.gov)) must be notified at this stage. The Leasing Specialist must include in this notification pertinent data such as the location, agency requesting the space, square footage need, size of the site, and timing.

### **Location**

Location of Federal lease construction facilities involves both the general area and the specific site. The location of a Federal lease construction facility speaks volumes, a message heard years after construction is complete. It dictates almost everything that follows, from transportation access and environmental impact, to the Federal Government's involvement with local initiatives and economies; to the placement, form, and cost of the building.

The selected site for an assignable purchase option has a major impact on the Federal tenants in terms of convenience, access, and the quality of the work environment. It also has an impact on the project's initial and life cycle costs and on the community's economy, sense of place, and social fabric.

Federal laws and Executive orders (E.O.s) address location choices. The Rural Development Act requires that agencies give first priority to rural areas, unless the agency mission or program requirements call for locations in an urban area. For projects located in urban areas, the primary Executive orders that impact location are:

- E.O. 12072, Federal Space Management, which requires first consideration to centralized community business areas,
- E.O. 13006, Locating Federal Facilities on Historic Properties in Our Nation's Central Cities, which requires that a hierarchical preference be afforded to historic properties and districts, and,
- E.O. 13514, Leadership in Environmental, Energy, and Economic Performance, which requires that GSA and other agencies advance regional and local integrated planning by, among other things:
  - Participating in regional transportation planning and recognizing existing community transportation infrastructure;
  - Aligning Federal policies to increase the effectiveness of local planning for energy choices such as locally generated renewable energy; and
  - Ensuring that planning for new Federal facilities or new leases includes consideration of sites that are pedestrian friendly, near existing employment centers, and accessible to public transit, and emphasizes existing central cities and, in rural communities, existing or planned town centers.

## Market Research

Before researching the market, the Leasing Specialist must review and update the communication plan and confirm that discussions have occurred with local governments regarding the boundaries of the Central Business District. Next, if required, the Leasing Specialist must place an advertisement. Brokers can also be contacted at this stage. The market information gathered will help confirm the go/no-go factors in the evaluation of potential locations. The market research should be expected to take at least 15 business days and can be performed concurrently with developing the site requirements.

## Land Market Survey

After the above steps, the Leasing Specialist must perform a land market survey to confirm the suitability of available land to meet the project requirements. If sites do not meet the go/no-go factors at this stage, they must be eliminated with no further evaluation. The survey process takes a minimum of 15 business days to complete, assuming a short list of well qualified Offerors. The Leasing Specialist must complete the land market survey form for each property under consideration. The Leasing Specialist must then document the benefits and risks for each site. This assessment must include the pros and cons for general, technical, and financial factors. Among the steps this entails are the following:

- A range of market values must be obtained for the area of consideration. At the discretion of the Leasing Specialist or Contracting Officer, an appraisal may be obtained if it will help determine this value range.
- The Leasing Specialist must coordinate initial reviews for each site that consider zoning and local master plans to identify potential concerns. For example, if a zoning change is needed, how long will it take? Another example would be confirming that proposed Federal actions conform with master plans for the local area.
- These reviews must assess any existing environmental or cultural reports on each site. The Leasing Specialist must check with the regional NEPA specialist to confirm whether environmental site assessments (ESAs) need to be initiated at this stage. The floodplain determination must be completed at this stage as well.
- Conducting a test fit with the client agency will help confirm that any improvements will fit efficiently on the site.
- The Leasing Specialist must confirm again that the square footage (or acreage) at the site meets the client agency requirements.

After these reviews, the Leasing Specialist must confirm any changes to the preliminary evaluation factors to make them final and apply the go/no-go factors to each site for compliance checks.

## Land Market Survey Report

The Leasing Specialist should plan on at least 30 business days to complete the land market survey report. It must include a summary of findings, regional review, finalized short list, and automatic CATEX application report sections. There are valid opportunities when an automatic CATEX alone may be sufficient to satisfy NEPA requirements in selecting a site; however, this decision must be based on the answers to questions in the checklist CATEX, **not** on expedience in order to rush through the NEPA process. If an automatic CATEX does apply, the Leasing

Specialist seek RWA funding documentation and continue the checklist at step VI, part C, Site due diligence. If an automatic CATEX does not apply, the Leasing Specialist may collect RWA funding documentation and continue with the checklist at step VI, part A.

Before funds are committed to surveying any prospective site, leasing specialists must determine if the Offeror is willing to agree to the terms and conditions of the proposed assignable purchase option.

### **Due Diligence/NEPA**

Site due diligence considers the constructability of the improvements planned on the site. PBS needs to confirm that the site lends itself to efficient placement of the improvements to meet the clients' needs.

Due diligence studies must be conducted on all of the short-listed sites from the market survey. The Leasing Specialist must coordinate these through the regional NEPA specialist. If an automatic CATEX applies, further NEPA studies are not required. The Leasing Specialist should start by collecting RWAs for the studies required. NEPA studies include filling out the CATEX checklist, conducting an environmental assessment if needed, and completing an Environmental Impact Statement if needed. Typically NEPA studies concern themselves with the project's potential impact on the specific site and surrounding neighborhood area. Phase I studies are required of the shortlisted sites. Phase II studies are rarely necessary, very expensive and time consuming. Phase II studies should be exercised on a case-by-case basis and must be authorized by the regional NEPA specialist.

All appropriate inquiry studies need to be completed in this phase. These include :

- The environmental site assessments;
- Historical studies as required under the National Historic Preservation Act (NHPA);
- Any needed geotechnical studies; and
- The final NEPA study.

The NHPA and NEPA studies require completion of specific consultations as well. Central Office's Center for Site Acquisition and Relocation must be notified at this stage (at Acquisition mailbox [asksites@gsa.gov](mailto:asksites@gsa.gov)).

The Leasing Specialist should plan for 150 business days to conduct these due diligence items.

### **Select Site and Execute Option**

An assignable purchase option passes through three stages:

1. Executed—Both parties (GSA and the landowner) have signed the option.
2. Assigned—GSA formally transfers to the lessor the option to purchase the site.
3. Exercised—The lessor uses the option to purchase the site.

During site selection and execution of the option, PBS must conduct title and valuation due diligence, which typically includes a title search, determining a range of values, and obtaining a



metes and bounds survey. This process allows the Leasing Specialist to negotiate a draft option agreement, obtain legal review, and finally execute the assignable purchase option agreement. Once the parties have executed the agreement, the Leasing Specialist, in consultation with Regional management, may decide to announce the site selection through a press release or other medium.

### **Issue the RLP and Assign Option**

To issue the RLP, the Leasing Specialist may record the option but must inspect the site. A new title search is optional based on the site inspection results. The RLP must include all relevant site materials and studies. After award (see below), the Leasing Specialist must assign the option to the lessor. This allows the lessor to close on the land and submit evidence of the lessor's due diligence to the Government. To assign the option to the lessor, the Lease Contracting Officer must send a letter of assignment to both the land owner and the lessor. This notifies them that GSA is formally assigning the right to purchase the site to the lessor. The lessor then exercises the option and purchases the land. The Leasing Specialist must contact the region's realty management or subject matter experts to determine whether the region requires any unique actions at this point.

### **f. Lease Award**

Upon receipt of final proposal revisions, the Lease Contracting Officer completes a final analysis and ranks Offerors using the criteria specified in the RLP. The Lease Contracting Officer must review pre-award requirements that deal with the small business subcontracting plan (if required), equal employment opportunity compliance, affirmative action plan for the disabled, and the excluded parties list. GSA assembles all of the lease contract documents. After GSA and the lessor execute the lease contract, the Leasing Specialist or Lease Contracting Officer must notify unsuccessful Offerors, conduct the requested debriefings and posts a synopsis of the lease award on FedBizOpps.

See Chapter 2, Part 5, Award Determination, for more information on the lease award process.

The Leasing Specialist must inform the Center for Site Acquisition of this award.

## **7. Construction Management**

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The construction phase introduces a significant shift in the project management structure. The post-award phase requires a focused and specific skill set. During this phase, the Lease Contracting Officer or Leasing Specialist should relinquish the reins of the project to a project manager or construction manager. The latter must assert themselves as the post-award project leader, while the Lease Contracting Officer and Leasing Specialist take a supporting role in officiating over the contract and administering any changes necessary in the lease. An exception to this practice occurs if the Lease Contracting Officer or Leasing Specialist is well-qualified in construction management and has the workload capacity to take on the construction management responsibilities.

### **a. Post-award Submittals**

The project manager or construction manager is responsible for managing post-award submittals. These mirror the submittals for new or replacing leases where tenant improvements are required.

See Chapter 2, Part 6, paragraph 2, Setting Up Post Award, for additional information on these submittals.

### **b. Team Meeting (Post Award)**

The first post-award meeting is an important part of the design and construction phases, as it establishes the protocol and expectations for all team members for this part of the process. The timing of the first meeting is important; it must occur (at a minimum) before commencing any construction but after the Lease Contracting Officer has issued the Notice to Proceed.

Technical support is integral to the success of this phase. The project manager or construction manager must work cooperatively with team members, field office representatives, engineers, space planners, and others throughout this phase to document construction progress and deficiencies. See Chapter 2, Part 7, Construction Phase, for more information on preparing for this meeting.

### **c. Site Preparation**

The site preparation must begin during this phase in accordance with the construction management project plan.

### **d. Design Intent Drawings (Post Award)**

The project manager or construction manager must coordinate the design intent drawings (DIDs) with the Offeror. DIDs detail the features to be built and become the basis for the final construction drawings (CDs). They do not contain mechanical, electrical, or plumbing specifications or drawings. They do not carry furniture or computer and telecommunication specifications; nor do they contain signage, artwork, keying, or hardware schedules.

DIDs are drawings that show partitions and doors; schematic demolition; voice, data, and electrical outlet locations; level of finishes; generic furniture layout; and any additional details necessary to communicate the "design intent" to the lessor's architect for the purpose of preparing construction documents.

See Chapter 2, Part 6, Design, TI Negotiations, and Notice to Proceed, for more information on preparing DIDs.

### **e. Construction Schedule (Post Award)**

The project manager or construction manager must confirm that the construction schedule follows the same format as the schedule developed for TI RLPs (see Chapter 2, Part 7, Construction Phase) and must identify any critical time frames and milestones. One critical difference between full construction project schedules and others is the time and complexity required to build the building shell.

### **f. Construction Drawings (Post Award)**

The project manager or construction manager must confirm that the construction drawings (CDs) conform to accessibility standards in the lease.

CDs, sometimes referred to as "working" or "sealed" drawings, provide the specifications, engineering calculations, and construction details necessary to build the space. They are also the basis for determining code compliance, obtaining building permits, evaluating contractual



performance, and fire and life safety. CDs reflect both the lease requirements and specifications in the DIDs. See Chapter 2, Part 6, paragraph 4, Construction Drawings, for more information on these requirements.

### **g. TI Bid Procurement (If Required)**

The project manager or construction manager will coordinate the TI bid procurement process if required. Chapter 2, part 6 also describes the key steps in TI bid procurement. In summary, the lessor submits proposed competitive pricing of TI costs. Upon review and approval, GSA authorizes the lessor to proceed with the tenant improvements.

### **h. Notice To Proceed**

The Lease Contracting Officer provides notice to proceed in writing, which binds the Government contractually. The content of the notice depends on whether the construction contract was awarded competitively or on the basis of cost and pricing. See Chapter 2, Part 6, paragraph 6, Notice to Proceed (NTP), for more information on this process.

### **i. Construction Phase**

The construction phase is a milestone in the project schedule after the notice to proceed is given and no additional comments on the drawings are received. Reaching this milestone means the contractor has approval to pursue permits and conduct other pre-construction actions.

### **j. Coordinate Tenant Installations**

During construction, the project manager or construction manager may arrange or conduct regularly scheduled progress inspections or inspections at critical points. The project manager or construction manager must conduct progress inspections and stay informed of any issues the inspections uncover before the build-out is completed. Periodic progress inspections are important for:

- Verifying compliance with the lease construction schedule and lease construction drawings;
- Observing the quality of construction work; and
- Reducing the amount of costly rework.

See Chapter 2, Part 7, Construction Phase, for more information on coordinating tenant installations.

### **k. Advance Payments**

Progress payments or advance payments may be requested by the Lessor in some procurements or after award of the lease.

Any payments made in advance of substantial completion or occupancy must be approved as advance payments. If advance payments are contemplated, the Lease Contracting Officer must consult with the Office of Regional Counsel. Advance payments are only permitted after a written findings and determination by the Lease Contracting Officer recommending advance payment and approval by the Head of the Contracting Activity (HCA). Advance payments can only be made if adequate security is available for the Government.

Progress payments are not legally authorized for leasing.

## **I. Final Inspection**

In the final inspection for space acceptance, the project manager or construction manager must verify that the space and appurtenances—associated property and leasing rights such as parking lots, and floodlights—meet all the performance requirements of the lease agreement and the design intent drawings. This inspection is a crucial turning point, because it establishes whether the space is “substantially complete” (see below). Extreme care is required in arriving at this decision, since failure to notice flaws or shortcomings in the construction can have costly ramifications later the client agency has moved into the space.

Conducting the final acceptance inspection consists of the steps discussed in Chapter 2, Part 7, paragraph 5, Acceptance Inspection.

## **m. Space Acceptance**

Before the project manager or construction manager can accept the space, it must be “substantially complete,” meaning that all work necessary for the Government’s access, occupancy, use, and enjoyment has been completed and the space will serve its intended function. This requires completion of all work, except for minor matters that do not interfere with access, occupancy, use, or enjoyment. If it is not capable of being used for its intended purpose and delivering its intended benefits, then it is not substantially complete and GSA may not accept the space. Additionally, the Lessor is required to provide a valid certificate of occupancy (C of O), issued by the local jurisdiction, for the intended use of the Government. If the local jurisdiction requires systems furniture installation prior to the final certificate of occupancy, a temporary C of O may be acceptable. If the local jurisdiction does not issue certificates of occupancy or if the C of O is not available, the Lessor may obtain satisfaction of this condition by obtaining the services of a licensed fire protection engineer to verify that the offered space meets all applicable local codes and ordinances and provides an acceptable level of safety. Under such circumstances, the Government may only accept the space without a certificate of occupancy if a licensed fire protection engineer determines that the offered space is compliant with all applicable local codes and ordinances. See Chapter 2, Part 7, Section 5, Acceptance Inspection, for additional requirements. When the space is accepted rent will commence.

## **n. Final Contract Documents**

The project manager or construction manager must document their acceptance decision with the completed GSA form 1204, Condition Survey Report, or similar form signed by the lessor, client agency, and GSA. See Chapter 2, Part 7, paragraph 5, Acceptance Inspection, for additional information on the final contract documents.

## **o. Cost Management**

### **Small, Medium Construction Acquisitions**

For new lease construction projects the project manager or construction manager will follow the Tenant Improvement Cost Summary (TICS) table Masterformat cost elements and be to Uniformat Level 5 as described in the P-120, Project Estimating Requirements for the Public Building Service, page 14, as a basis for cost estimates on the proposal from the lessor or general contractor. An Independent Government estimate (IGE) must be provided using DIDs, CDs if available, or other scope documents with sufficient detail for estimating purposes.



The TICS table can be accessed at on GSA Insite at [http://pbsportal.pbs.gsa.gov:7777/pls/portal/docs/PAGE/PQ/DOCUMENTS/PR/PR\\_DOCUMENT\\_S\\_FOR\\_EDITORS/RE-ENUPDATES.html#R15](http://pbsportal.pbs.gsa.gov:7777/pls/portal/docs/PAGE/PQ/DOCUMENTS/PR/PR_DOCUMENT_S_FOR_EDITORS/RE-ENUPDATES.html#R15)

As stated in the TI RLP, the lessor may be required to submit a budget proposal based on the TI and associated work as shown on the DIDs. For projects using a turnkey approach, estimates are required at issuance of the RLP. This is a refined budget estimate used for negotiating TI and security costs and for providing the client with an estimate of lump-sum reimbursable costs.

Estimates may also be requested at the following steps in the acquisition process:

- **TI RLP projects**—The TI allowance is routinely calculated by the Leasing Specialist. It may be used as an initial budget estimate for the client. An estimate must also be prepared after the lessor completes the CDs. This estimate is more detailed than the one prepared at the DID stage and is useful for negotiating TIs, planning for security costs, and reconciling cost differences in the lessor's tenant improvement price proposal.
- **Turnkey RLP projects**—an initial budget estimate is required before RLP issuance. It must be based upon a detailed POR. This will serve as the Independent Government Estimate (IGE) for price negotiations before lease award.

### Large and Complex Construction Acquisitions

Large and complex projects will also follow the TICS table Masterformat cost elements and be to Uniformat Level 5 as described in the P-120, Project Estimating Requirements for the Public Building Service.

These projects may be delivered by either the TI RLP or turnkey process. A preliminary project budget estimate is required. It must use a methodology that translates construction costs into appropriate shell and TI rent components and identify lump-sum requirements before the solicitation.

A cost model estimate must establish an initial baseline estimate of core and shell, TI, and building-specific amortized security costs based on a conceptual POR as early in the project planning phase as possible. The cost model estimate is different from a traditional estimate because it is not based upon design documents but only on a conceptual space program and special requirements.

Prospectus-level new lease construction projects require lessors to submit cost proposals on a newly developed spreadsheet using a standardized cost breakdown and bid tabulation in accordance with the requirements of the P-120 Project Estimating Requirements handbook. The cost breakdown separates TI, security, and shell costs and includes applicable lessor development costs (soft costs) in addition to construction. The standardized nomenclature facilitates the analysis of competing proposals as well as comparison with the IGE.

## 8. Occupancy

### a. Rent Start

The final OA must be compared against the rent commencement lease amendment before it is distributed to the client agency for signature. If any pricing components of the OA are less than those in the lease as amended, then the Leasing Specialist must produce a new OA reflecting those new terms (including the rent start date) and have the agency sign it. See Chapter 2, Part 8, Lease Commencement and Closeout, for more details on the rent start process.

### Lease Copies and Post-Award Notifications

The Lease Contracting Officer must distribute the Lease Amendment and prepare post-award notifications as prescribed in Desk Guide chapter 2, part 5, subparagraphs 5e and 5f.

### b. Occupancy

The lease requires the lessor to provide a number of standard items after occupancy. Additionally, other post occupancy deliverables may be required as part of the client agency's special requirements. The Leasing Specialist must maintain a reference list of deliverables throughout RLP development, negotiation, award, post-award, and change orders to confirm that the Government receives all of the information it is paying the lessor to furnish. See Chapter 2, Part 8, paragraph 5, Post-Occupancy Deliverables, for more information on these standard items.

### c. Relocation Assistance

GSA is responsible for confirming compliance with the requirements of 49 CFR 24. This regulation requires that people displaced by lease construction must be offered relocation assistance under specific conditions. When an offer could involve lease construction, the lease must require the lessor to provide satisfactory assurances that fair and reasonable relocation payments and assistance will be provided to or for displaced persons.

Additionally, the RLP must direct Offerors to include the cost of relocation assistance to displaced tenants (when applicable) in the shell rent. To establish this requirement with potential lessors, the Leasing Specialist must include a paragraph in the RLP that contains the following statement (or one similar):

If an Offeror proposes an improved site and new construction will result in the displacement of individuals or businesses, the successful Offeror is responsible for paying relocation costs in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646), as amended, and the implementing regulations at 49 CFR Part 24. Offerors must incorporate the cost of such assistance into their shell rental rate.

The successful Offeror must give GSA the name of the person(s) and/or agency(s) that will be providing the relocation assistance to site tenants.